IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Court No.3

Criminal Revision No. 19 of 2003
Bhupendra Singh … Revisionists.

Vs.

State of Uttaranchal & another .. Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri K.S.Verma learned counsel for the petitioner and Sri Lok Pal Singh learned counsel for the respondent.

2- This is a criminal revision against the order dated 13.2.2003 passed by Principal Judge, Family Court Haridwar whereby the respondent No.2 was awarded interim maintenance at the rate of Rs. 2000/- per month.

3- The learned counsel for the revisionist drew attention to the copy of the application under section 125 of the Code of Criminal Procedure (for short 'Code') which was preferred by the respondent No.2 on 28-6-2001. In this application the prayer for grant of maintenance at the rate of Rs. 500/- per month only was made. The learned counsel for the revisionist submitted that the impugned order is without jurisdiction in as much as the interim maintenance had been awarded at higher rate than even demanded by the respondent No.2 in the petition. This apart the learned counsel for the revisionist submitted that the revisionist-husband is in employment on monthly salary of Rs. 2000-00 per month with Doon Jewelers, Dehradun and that the rate of interim maintenance is exorbitant. On the other hand learned counsel for the respondent No.2 submitted that the enhanced interim maintenance was awarded in view of amended provisions of section 125 of the 'Code'. Without making any amendment in the main petition enhanced maintenance could not have been legally awarded by the learned Principal Judge Family Court. Considering this aspect the order to this effect can not be maintained.

4- In view of above the revision is allowed to the extent that the interim maintenance awarded to respondent No.2 is reduced to Rs. 500-00 per month to be paid from the date as mentioned in the impugned order. It is directed that the arrears shall be paid in three instalments, first of which will fall due in the first

week of the month of November 2003 and thereafter second instalment shall fall due after expiry of two months and so on. However present interim maintenance shall be paid month to month.

5- It is also directed that the application under section 125 of the 'Code' shall be finally disposed of expeditiously by the Principal Judge preferably within a period of three months from the receipt of copy of this order.

(Irshad Hussain, J.)

Dated 21-10-2003

ISB